

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## SENATE ENROLLED ACT No. 311

AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 5-2-5-1, AS AMENDED BY P.L.1-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The following definitions apply throughout this chapter:

(1) "Limited criminal history" means information with respect to any arrest criminal charge, which must include a disposition. However, information about any arrest or criminal charge which occurred less than one (1) year before the date of a request shall be considered a limited criminal history even if no disposition has been entered.

(2) "Bias crime" means an offense in which the person who committed the offense knowingly or intentionally:

(A) selected the person who was injured; or

(B) damaged or otherwise affected property;

by the offense because of the color, creed, disability, national origin, race, religion, or sexual orientation of the injured person or of the owner or occupant of the affected property or because the injured person or owner or occupant of the affected property was associated with any other recognizable group or affiliation.

(3) "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children less

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than eighteen (18) years of age.

(4) "Council" means the security and privacy council created under section 11 of this chapter.

(5) "Criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals. The term consists of the following:

(A) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.

(B) Information regarding a sex and violent offender (as defined in IC 5-2-12-4) obtained through sex and violent offender registration under IC 5-2-12.

(C) Any disposition, including sentencing, and correctional system intake, transfer, and release.

(6) "Certificated employee" has the meaning set forth in IC 20-7.5-1-2.

(7) "Criminal justice agency" means any agency or department of any level of government whose principal function is the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders, the location of parents with child support obligations under 42 U.S.C. 653, the licensing and regulating of riverboat gambling operations, or the licensing and regulating of pari-mutuel horse racing operations. The term includes the office of the attorney general. The term includes the Medicaid fraud control unit for the purpose of investigating offenses involving Medicaid. The term includes a nongovernmental entity that performs as its principal function the:

(A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;

(B) location of parents with child support obligations under 42 U.S.C. 653;

(C) licensing and regulating of riverboat gambling operations; or

(D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

(8) "Department" means the state police department.

(9) "Disposition" means information disclosing that criminal proceedings have been concluded or indefinitely postponed.

(10) "Inspection" means visual perusal and includes the right to make memoranda abstracts of the information.

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(11) "Institute" means the Indiana criminal justice institute established under IC 5-2-6.

(12) "Law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders. The term includes the office of the attorney general.

(13) "National criminal history background check" means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification.

(14) "No contact order" means an order that prohibits a person from having direct or indirect contact with another person and that is issued under:

- (A) IC 31-32-13;
- (B) IC 31-34-17;
- (C) IC 31-34-20;
- (D) IC 31-37-16;
- (E) IC 31-37-19-1;
- (F) IC 31-37-19-6;
- (G) IC 33-14-1-7;
- (H) IC 35-33-8-3.2; or
- (I) IC 35-38-2-2.3.

(15) "Noncertificated employee" has the meaning set forth in IC 20-7.5-1-2.

(16) "Protective order" has the meaning set forth in IC 5-2-9-2.1. The term includes a foreign protection order (as defined in IC 34-6-2-48.5).

(17) "Qualified entity" means a business or an organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care or care placement services, including a business or an organization that licenses or certifies others to provide care or care placement services.

(18) "Release" means the furnishing of a copy, or an edited copy, of criminal history data.

(19) "Reportable offenses" means all felonies and those ~~Class A~~ misdemeanors which the superintendent may designate.

(20) "Request" means the asking for release or inspection of a limited criminal history by noncriminal justice organizations or individuals in a manner which:

- (A) reasonably ensures the identification of the subject of the inquiry; and
- (B) contains a statement of the purpose for which the

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information is requested.

(21) "School corporation" has the meaning set forth in IC 20-10.1-1-1.

(22) "Special education cooperative" has the meaning set forth in IC 20-1-6-20.

(23) "Unidentified person" means a deceased or mentally incapacitated person whose identity is unknown.

(24) "Workplace violence restraining order" means an order issued under IC 34-26-6.

SECTION 2. IC 5-2-5-7, AS AMENDED BY P.L.116-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may, **if the agency has complied with the reporting requirements in section 2 of this chapter**, and the department shall do the following:

(1) Require a form, provided by them, to be completed. This form shall be maintained for a period of two (2) years and shall be available to the record subject upon request.

(2) Collect a three dollar (\$3) fee to defray the cost of processing a request for inspection.

(3) Collect a seven dollar (\$7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the division of family and children.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information which:

(1) has been requested; and

(2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request relates to the sex and violent offender directory under IC 5-2-6 or concerns a person required to register as a sex and violent offender under IC 5-2-12.

SECTION 3. IC 5-2-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) For each person arrested and charged by information or indictment with a ~~felony or with a Class A misdemeanor~~ **reportable offense (as defined in IC 10-13-3-18)** there shall be filed with the court having jurisdiction over the case:

(1) a fingerprint sample taken from the arrested person; and

(2) an affidavit, attached to or as an integral part of the fingerprint

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sample, from an employee of the law enforcement agency effecting the arrest that identifies the sample as taken from the arrested person.

(b) The failure to file a fingerprint sample or an affidavit under subsection (a) is not a ground for the dismissal of a criminal action or the continuance of a criminal action.

SECTION 4. IC 10-13-3-18, AS ADDED BY SEA 257-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. As used in this chapter, "reportable offenses" means all felonies and those ~~Class A~~ misdemeanors the superintendent designates.

SECTION 5. IC 10-13-3-30, AS ADDED BY SEA 257-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 30. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may, **if the agency has complied with the reporting requirements in section 24 of this chapter**, and the department shall do the following:

(1) Require a form, provided by law enforcement agencies and the department, to be completed. The form shall be maintained for two (2) years and shall be available to the record subject upon request.

(2) Collect a three dollar (\$3) fee to defray the cost of processing a request for inspection.

(3) Collect a seven dollar (\$7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the division of family and children.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information that:

(1) has been requested; and

(2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request relates to the sex and violent offender directory under IC 5-2-6 or concerns a person required to register as a sex and violent offender under IC 5-2-12.

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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